

COMMITTEE AMENDMENT FORM

DATE: 05/14/02

COMMITTEE CITY UTILITIES

PAGE NUM. (S) 1 & 2

ORDINANCE I. D. #02-O 0852

SECTION (S) 1

RESOLUTION I. D. #02-R-

PARA.

AMENDS THE LEGISLATION BY ADDING NEW LANGUAGE TO SECTION 1 WHICH READS AS FOLLOWS:

Section One: That the Mayor is authorized to enter into agreements with EPA and EPD, subject to approval of the Court, to modify the First Amended Consent Decree for the purposes set out above and shown with more particularity in the draft text attached as Exhibit "A" and that the date for compliance, consisting of construction and operation of the Nancy Creek Lift Station and Tunnel and as set out in Exhibit "A" in Paragraph XI. D. 4, shall be established as of August 31, 2005 or, with agreement of United States Environmental Protection Agency (EPA) and Georgia Environmental Protection Division (EPD), on or before December 31, 2005; and

Amendment done by Council staff 5/14/02.

AN ORDINANCE BY

02-O-0852

**COUNCILMEMBERS MARY NORWWOD, C.T. MARTIN,
CLAIR MULLER H. LAMAR WILLIS & HOWARD SHOOK**

AS AMENDED BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS WITH THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) AND ENVIRONMENTAL PROTECTION AGENCY (EPA), SUBJECT TO APPROVAL BY THE COURT, TO MODIFY THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98CV-1956-TWT; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta is desirous of entering into agreements with the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA), subject to approval by the Court, to modify certain provisions of the First Amended Consent Decree (1:98-CV-1956-TWT); and

WHEREAS, the purpose of modification, as shown more particularly in the text attached in draft form as Exhibit "A", is to delete from the First Amended Consent Decree the requirement to construct the DeKalb Diversion Project by March 1, 2003 and delete the associated stipulated penalty of \$1,000,000.00 and moratorium for late construction after March 1, 2003; and, in lieu thereof, to substitute the Nancy Creek Lift Station and Tunnel Project to be constructed by August 31, 2005 and provide for imposition of the said penalty and moratorium for late construction, if any, only after August 31, 2005; and, on June 1, 2002 to suspend accrual of sewer capacity credits based on estimated reduction of inflow/infiltration contribution to peak flow in the Nancy Creek Sewer Basin and allow such credits to be expended in the Nancy Creek Sewer Basin only if available to the City as of June 1, 2002; and

WHEREAS, the City has recently incurred interest due on stipulated penalties assessed in the 2nd Quarter of 2002 in the amount of \$882.42. In order to avoid such assessment of interest the City is desirous of entering into agreements with the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA), subject to approval by the Court, for the additional purpose of modification of the First Amended Consent Decree to extend the time for payment of stipulated penalties from 30 days to 60 days after demand for the same.

NOW, THEREFORE, BE AND IT IS ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA as follows:

Section One: That the Mayor is authorized to enter into agreements with EPA and EPD, subject to approval of the Court, to modify the First Amended Consent Decree for the purposes set out above and shown with more particularity in the draft text attached as Exhibit "A" and that the date for compliance, consisting of construction and operation of the Nancy Creek Lift Station and Tunnel and as set out in Exhibit "A" in Paragraph XI.

D. 4, shall be established as of August 31, 2005 or, with agreement of United States Environmental Protection Agency (EPA) and Georgia Environmental Protection Division (EPD), on or before December 31, 2005; and

Section Two: That the City Attorney is hereby directed to prepare text for modification of the First Amended Consent Decree to accomplish the purposes set out above and substantially in the form of the draft text attached as Exhibit "A", and

Section Three: That the Municipal Clerk shall forward a copy of this ordinance to the United States Department of Justice, United States Environmental Protection agency (EPA), the State of Georgia Law Department and the State of Georgia Environmental Protection Division (EPD).